

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

<p>REX GARD,</p> <p>Plaintiff,</p> <p>vs.</p> <p>BOB DOOLEY, CHIEF WARDEN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUSAN JACOBS, ASSOCIATE WARDEN, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; MURIEL NAMINGA, LAUNDRY SUPERVISOR, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; ANDRA GATES, SUPERVISOR, DOH, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; KELLY SWANSON, SUPERVISOR, DOH, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; JENIFER BEMBOOM, CBM FOOD SERVICE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; JOHN TREWIELLAR, CBM FOOD SERVICE, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; BARRY SCHROETER, CBM FOOD SERVICE, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; JENIFER STANWICK, DEPUTY WARDEN, INDIVIDUAL AND OFFICIAL CAPACITY; REBECCA SCHEIFFER, ASSOCIATE WARDEN, INDIVIDUAL AND OFFICIAL CAPACITY; LELAND TJEERDSMA, MAJOR, INDIVIDUAL AND OFFICIAL CAPACITY; TRAVIS TJEERDSMA, UNIT STAFF, INDIVIDUAL AND OFFICIAL CAPACITY; TAMMY DEJONG, UNIT STAFF, INDIVIDUAL AND OFFICIAL CAPACITY; RANDY STEVENS, PROPERTY OFFICER, INDIVIDUAL AND OFFICIAL CAPACITY; CORPORAL CROPPER, CORPORAL, INDIVIDUAL AND OFFICIAL CAPACITY; RANDY MILNE, CORRECTIONS OFFICER, INDIVIDUAL AND OFFICIAL</p>	<p>4:14-CV-04023-LLP</p> <p>ORDER DENYING MOTION FOR RECUSAL</p>
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CAPACITY; JESSICA LUKE, OFFICE STAFF, DOH, INDIVIDUAL AND OFFICIAL CAPACITY; DOC STAFF, UNKNOWN AT THIS TIME, INDIVIDUAL AND OFFICIAL CAPACITY; AND CBM FOOD SERVICES EMPLOYEES, UNKNOWN AT THIS TIME, INDIVIDUAL AND OFFICIAL CAPACITY; Defendants.	
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This matter is before the court on plaintiff Rex Gard's *pro se* complaint. Mr. Gard now moves this court to recuse itself on the grounds that the court previously recused itself in Gard v. Weber, Civ. No. 10-5017.

Mr. Gard's prior lawsuit in Civ. No. 10-5017 was a petition for a writ of habeas corpus. In that petition, Mr. Gard was seeking a writ of habeas corpus in federal court on the grounds that his state court criminal conviction had violated his constitutional rights. This court recused itself in that matter because the court had knowledge of some facts regarding Mr. Gard's underlying state criminal case. The recusal was based on knowledge of the facts of the claim rather than anything personal to Mr. Gard himself.

Mr. Gard's other cases now pending in federal court do not involve the facts of his underlying conviction in state court. Rather, these pending matters involve allegations regarding the current circumstances of Mr. Gard's confinement in state prison. This court has no prior knowledge of those prison conditions. Hence the reason which existed for this court's prior recusal from Mr. Gard's habeas case does not exist in his present pending cases. Accordingly, it is hereby

ORDERED that Mr. Gard's motion to recuse is denied.

DATED this 29th day of June, 2015.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Veronica L. Duffy", written in black ink.

VERONICA L. DUFFY
United States Magistrate Judge